United Nations A/HRC/31/80

General Assembly

Distr.: General
25 January 2016

Original: English

Human Rights Council
Thirty-first session
Agenda items 2 and 10
Annual report of the United Nations High Commissioner for Human Rights and reports of the Office of the High Commissioner and the Secretary-General

Technical assistance and capacity-building

Technical cooperation and capacity-building to promote and protect the rights of all migrants, including women, children, older persons and persons with disabilities

Report of the Office of the United Nations High Commissioner for Human Rights

Summary

In the present report, the Office of the United Nations High Commissioner for Human Rights provides examples of the type of technical assistance and advisory services provided by the Office of the High Commissioner , alone or with other United Nations entities, to promote and protect the rights of migrants. It is based on research undertaken by the Office on national and regional experiences and highlights methodologies, good practices and lessons learned that have been gathered by the Office in the field and at headquarters.

GE.16-00969(E)

Please recycle

Contents

		Page
I.	Introduction and methodology	3
II.	Framework for technical cooperation in the context of migration	4
III.	National and regional technical cooperation experiences to promote and protect the rights of all migrants, including women, children, older persons and persons with disabilities	7
	A. Compliance of national legislation, policies, programmes and institutions, including the judiciary and national human rights institutions, with international human rights standards	7
	B. Ratification of international and regional human rights instruments, and review of reservations	13
	C. Compliance of national legislation, policies and programmes and institutions with international human rights standards to combat discrimination, particularly against women	14
	D. Increased use of existing national protection systems and participation in public processes by rights holders, especially women and discriminated groups	15
	E. Compliance and engagement by States with United Nations human rights mechanisms and bodies	16
IV.	Conclusions and recommendations	17

I. Introduction and methodology

1. The present report is submitted pursuant to Human Rights Council resolution 30/21, in which the Council requested the Office of the United Nations High Commissioner for Human Rights (OHCHR) to prepare a report on the activities undertaken by the Office, other relevant United Nations agencies and, where applicable, regional organizations, to support efforts by States to promote and protect the rights of migrants in their national legislations, policies and programmes. It will serve as a basis for a thematic panel discussion to be held by the Council at its thirty-first session under agenda item 10.

2. In its resolution 30/21, the Human Rights Council acknowledged the cultural and economic contributions made by migrants to their communities of origin and destination, and the need to identify appropriate means of maximizing development benefits, to respond to the challenges that migration poses to countries of origin, transit and destination, to promote dignified, humane treatment with applicable protections and access to basic services, and to strengthen mechanisms for international cooperation. It recognized that States were responsible for promoting and protecting the human rights of all persons who are in their territory and subject to their jurisdiction, including irregular migrants, in accordance with their international human rights obligations, and the shared responsibilities of countries of origin, transit and destination to promote and protect the human rights of migrants, and avoid approaches that might aggravate their vulnerability, bearing in mind the need to address the special situation and vulnerability of migrant women and girls. It expressed deep concern at the large and growing number of migrants, in particular women and children, including those unaccompanied or separated from their parents, who find themselves in a vulnerable situation when they attempt to cross international borders, and recognized the obligation of States to respect the human rights of those migrants, in accordance with their applicable international human rights obligations.

3. The present report covers the period from 2010 to 2015, considered a reasonable time frame within which incipient results can be provided. It illustrates the kind of work that OHCHR has undertaken to advance respect for migrants' rights in response to requests and expressions of interest by Member States. It presents initiatives and strategies that have shown potential for promoting and protecting the rights of migrants, and highlights methodologies, good practices and lessons learned gathered by OHCHR in the field and at headquarters. The report is organized around the relevant results (expected accomplishments) that OHCHR has set for itself in the area of migration, and includes a number of initiatives that OHCHR has taken in cooperation with other United Nations entities and regional organizations.

4. The integration of human rights norms and standards in migration policy and the adoption of a human rights-based approach at the national, regional and international levels have long been a priority of OHCHR. Before 2013, the protection of human rights in the context of migration was a thematic priority. In 2013, the OHCHR Management Plan for the period 2014-2017 mainstreamed migration across six thematic priorities for OHCHR in order to better integrate work on migration throughout the Office's activities.

5. The present report describes a selection of technical cooperation practices developed by OHCHR and other United Nations entities and regional organizations that have proved effective and yielded visible results when supporting State efforts to align national policies, strategies and laws with international human rights norms and principles, recommendations and commitments. To facilitate discussions in the Human Rights Council, these experiences have been organized under the expected accomplishments of OHCHR that are most relevant to technical cooperation and advisory services in the area of migration, taking into account the contributions received from other United Nations entities and regional

organizations. This methodology provides a non-exhaustive overview of practices that are representative of the human rights technical cooperation and advisory services provided.

6. Through their technical cooperation and advisory services, the United Nations and regional organizations seek to assist States to ensure that duty-bearers uphold their human rights obligations. They support States' efforts to ensure that national legislation, policies, programmes and institutions comply with international human rights standards; to ratify international and regional human rights treaties and review reservations; to establish functioning and compliant national and regional protection systems and accountability mechanisms to monitor, investigate and redress human rights violations; and to build or strengthen mechanisms that enable rights-holders, in particular women and groups subject to discrimination, to claim their rights. At the international level, OHCHR assists States to meet their obligations by supporting their engagement with international human rights mechanisms and bodies, in association with other United Nations entities and, where pertinent, regional organizations.

7. To prepare the present report, OHCHR gathered information on the experiences, methodologies and learning of OHCHR headquarters and field presences, including regional and country offices, human rights components of United Nations peace missions, and human rights advisers to United Nations country teams, which work closely with host governments. Through the Global Migration Group, the Office also requested contributions from other United Nations entities and regional organizations. Contributions were received from the Department of Economic and Social Affairs, the Food and Agricultural Organization of the United Nations (FAO), the International Labour Organization (ILO), the International Organization for Migration (IOM) and the United Nations Entity for Gender Equality and the Empowerment of Women (UN-Women).

II. Framework for technical cooperation in the context of migration

8. The movement of people across national boundaries is a universal human phenomenon. Approximately 244 million people, or 3 per cent of the world's population, currently live outside their countries of origin, and approximately half of them are women and girls. Of these, ILO estimated in December 2015 that some 150 million were migrant workers.[1]

9. Migration is a multifaceted and complex phenomenon. It may be temporary or permanent, forced or voluntary, and makes use of regular and irregular channels of travel. Migrants move within and between countries of the global South and North, and migration affects all regions of the world. Migration patterns have a powerful impact on the economies, societies and cultures of countries of origin, transit and destination. At the same time, it must always be remembered that at the heart of migration are individual human beings who are entitled to the full range of human rights.

10. While many migrants are able freely and safely to move, live and work with dignity, millions of migrants are driven into insecure and vulnerable conditions as a result of economic disparities, conflict, environmental degradation, limited regular opportunities for migration, lack of access to rights such as health and education, and discrimination. Furthermore, as governments seek to combat irregular migration, including by strengthened

[1] *ILO Global estimates of migrant workers and migrant domestic workers: results and methodology* (ILO, Geneva, 2015).

frontier controls, borders can become sites of violence, discrimination and abuse. Increased border surveillance and securitization, together with a drastic reduction of accessible avenues for regular migration, have caused migrants to seek more perilous routes. Many rely on the services of brokers, agents, smugglers and other private actors, and some fall into the hands of abusive smugglers and traffickers. Smuggling does not in itself constitute a human rights violation, although in the course of smuggling the human rights of migrants can be abused (see A/HRC/31/35); trafficking, by contrast, is always a human rights violation. In a distinct but complementary dimension of its work, OHCHR has made progress in advancing on the human rights-based approach to combat and prevent trafficking, which makes use of technical support and capacity-building and supports the Special Rapporteur on trafficking in persons, especially women and children.

11. In countries of destination, regular and irregular migrants may find themselves subject to systematic discrimination and without access to their fundamental rights to health, housing and decent work. Exclusionary and xenophobic political rhetoric has spread around the world, fuelling intolerance and resentment of migrants, often leading to acts of violence, hate crimes and hate speech. Hidden away in private households, migrant domestic workers are frequently subject to intolerable living and working conditions.

12. Women and children, and other vulnerable groups (such as persons with disabilities and older persons) are at particular risk of violence and discrimination in the course of migration. In its general recommendation No. 26 (2008) on women migrant workers, the Committee on the Elimination of Discrimination against Women highlighted the fact that undocumented women migrant workers were particularly vulnerable to exploitation and abuse because of their irregular immigration status, which exacerbated their exclusion and the risk of exploitation. They could be exploited as forced labour, and their access to minimum labour rights could be limited by fear of denouncement. They could also face harassment by the police. If apprehended, they were usually prosecuted for violations of immigration laws and placed in detention centres, where they were vulnerable to sexual abuse, and then deported.

13. Migrant children and adolescents, particularly those in an irregular situation, are also exposed to human rights violations and abuses at various points of their journey. The risks to unaccompanied and separated migrant children are of particular concern to OHCHR, other United Nations entities, and regional organizations. During recent migration and asylum flows to Europe and the United States of America, their number has increased dramatically. Under the Convention on the Rights of the Child and other international standards, States have a duty to immediately identify and protect such children, acting in their best interests. However, migration policies and practices frequently allow immigration enforcement to override child protection imperatives, putting such children at additional risk of exploitation and human rights abuse. In many countries, furthermore, age determination procedures do not fully respect international standards. OHCHR and other United Nations agencies, including the Office of the United Nations High Commissioner for Refugees (UNHCR) and the United Nations Children's Fund (UNICEF), have worked together to assist States to develop adequate safeguards, policies and programmes that comply with international standards.

14. In the past five years, OHCHR has strengthened its work on migration, including to provide better support to States and regional organizations as they address these and other challenges on the ground. Technical cooperation, an integral element of all OHCHR programmes, is one of the vehicles used by the Office to provide this support. Including both technical assistance and capacity-building, it aims to identify and address knowledge and capacity gaps, to facilitate constructive dialogue and to help national counterparts to achieve positive change. OHCHR undertakes technical cooperation activities at the request and with the agreement of States. They include a comprehensive assessment of the human

rights situation in a given country, and seek to align laws, policies, institutions and practices with international standards and obligations. Technical assistance and capacity-building complement other key OHCHR functions, as set out by the General Assembly in its resolution 48/141.

15. Supporting good technical cooperation work requires understanding better the real situations faced by those persons and groups affected and discussing possible workable solutions with them and all relevant actors. OHCHR released a short documentary film in 2015, "I Am Not Here", in collaboration with Oscar-nominated director Ashvin Kumar, that follows the stories of three women in cities in Switzerland, the United States and Malaysia. It highlights the situation of undocumented women migrant domestic workers, millions of whom live in the shadows. The aim of making the film with all partners involved was to give a voice to those who are too often silenced, and to provide a platform for those who do not dare to come out of hiding. Around the world, millions of undocumented migrant domestic workers – women, men and even children – live their lives in the shadows, with no access services that others take for granted, and afraid to complain when they are ill-treated. The film was launched on the margins of the thirtieth session of the Human Rights Council, and has been screened to audiences in New York, Bangkok, Mumbai, London and New Delhi.

16. Since the creation of the mandate of the United Nations High Commissioner for Human Rights, OHCHR has worked closely with States to support their efforts to advance the enjoyment of human rights by all persons, including migrants. Its work has included advisory services, including technical advice on institution-building and strengthening legislation and policies; training; awareness-raising initiatives; national workshops; dialogue facilitation; provision of documentation, publications and web tools; and the sharing of good practices from other countries. OHCHR, including through its field presences, promotes and supports the efforts of States to apply a human rights-based approach to migration. Numerous United Nations organizations and regional bodies work with and support States through technical cooperation in the area of migration. OHCHR therefore strives to ensure that its support falls within the High Commissioner's mandate and in areas where the Office's expertise adds value and has a comparative advantage. The Office works closely with all relevant United Nations agencies and regional organizations to ensure that the support they provide at the request of States is complementary and effective.

17. Through its field presences and headquarters, OHCHR engages directly with governments and actively cooperates with national stakeholders to promote and protect human rights, not least by applying mechanisms that protect marginalized groups at particular risk, such as migrants. Its technical support applies a human rights-based approach that upholds the universality, inalienability, indivisibility, interdependence and interrelatedness of all human rights, thereby ensuring that decisions and objectives are achieved in a participative and inclusive manner that respects the rule of law, is accountable and transparent, and avoids discrimination.

18. The Board of Trustees that oversees the Voluntary Fund for Technical Cooperation in the Field of Human Rights and the Voluntary Fund for Financial and Technical Assistance for the Implementation of the Universal Periodic Review (two key financial sources for OHCHR technical assistance) advises the Office on policy and strategic orientation with regard to technical cooperation. During its field sessions, the Board has discussed migration with the main counterparts and observed examples of cooperation. Some of these, in Mauritania, Mexico and Tunisia, are described in the present report. The OHCHR performance monitoring system, a results-based management tool, also provided information for this report on how and how well results were reached. The system has

proved particularly useful for identifying relevant areas of cooperation since 2014, when migration was mainstreamed within the Office's six principal thematic strategies.

19. As a founding member of the Global Migration Group and Co-Chair of its Working Group on Migration, Human Rights and Gender, OHCHR has sought to inject a human rights perspective into national, regional and global discussions on migration. The High Commissioner has personally highlighted the importance of migration and the protection of migrants' rights in a number of public statements and keynote speeches, in addition to publishing joint statements on the plight of migrants in the Mediterranean and South-East Asia with the United Nations High Commissioner for Refugees, the Director-General of IOM and the Special Representative of the Secretary-General on International Migration and Development (the "quartet"). OHCHR will work closely with Global Migration Group and quartet partners to ensure that the high-level meeting of the General Assembly on large-scale movements of refugees and migrants, to be organized by the Secretary-General at the seventy-first session of the Assembly, will be human rights-based and migrant-centred.

III. National and regional technical cooperation experiences to promote and protect the rights of all migrants, including women, children, older persons and persons with disabilities

A. Compliance of national legislation, policies, programmes and institutions, including the judiciary and national human rights institutions, with international human rights standards

20. At the global level, OHCHR launched its Recommended Principles and Guidelines on Human Rights at International Borders during the sixty-ninth session of the General Assembly, and subsequently in Brussels, Geneva and other regional settings. The Principles address capacity-building, rescue and interception, assistance, screening, identification and referral, as well as conditions of detention and removal, and have been broadly welcomed by a wide range of stakeholders. Member States are already applying the Principles: for example, in Switzerland, the State Secretariat on Migration refers to them in its internal guidance.

21. The Working Group on Human Rights and Gender of the Global Migration Group (which OHCHR co-chairs with UN-Women) has agreed to develop practical guidance drawn from international human rights law and related standards to ensure that responses to "mixed migration flows" are human rights-based.

22. In June 2015, OHCHR held an expert meeting on the theme, "Human rights and migrant smuggling: exploring issues and challenges", which convened experts from United Nations agencies, Member States, academia and civil society to discuss smuggling from a human rights perspective.

23. In its resolution 29/2, the Human Rights Council requested OHCHR to submit to the Council before its thirty-first session a study on the situation of migrants in transit, in consultation with States and other stakeholders. The report will address several of the concerns raised by the Council in resolution 29/2, notably the risks faced by women migrants and children, in particular unaccompanied and separated children.

24. OHCHR provides substantive technical assistance on human rights to the Global Forum on Migration and Development for its annual meeting , participating in and informing government teams, drafting background documentation and contributing to

discussions. For instance, OHCHR led the drafting of a background paper on the theme "Partnerships to promote inclusion and protect the human rights of all migrants in order to achieve the full benefits of migration" for the Global Forum in Turkey in 2015, and produced a short brochure entitled "Public Perceptions, Migration and Human Rights" for dissemination to participants in the meeting of the Global Forum in Mauritius in 2012.

25. In the framework of the Global Action Programme on Migrant Domestic Workers and their Families, in September 2015 OHCHR convened a global seminar in Bangkok on the human rights of migrant domestic workers in an irregular situation. The discussion shed light on the human rights challenges that such domestic workers face, and the gaps in their protection. In addition to government representatives, the participants included experts from human rights mechanisms, United Nations agencies, human rights and migrants' rights non-governmental organizations, domestic workers' and migrants' associations, trade unions and academic institutions. OHCHR released the report "Behind closed doors: protecting and promoting the human rights of migrant domestic workers in an irregular situation" during the event, and subsequently produced an outcome document with 10 key messages on protecting and promoting the human rights of migrant domestic workers. In May 2010, the OHCHR Regional Office for Europe organized a colloquium in Brussels on this important issue. Its findings were set out by the Regional Office in a background paper, entitled "Rights of Migrant Domestic Workers in Europe" for an ILO conference that included discussions on the possibility of a new ILO convention on domestic workers.

26. In March 2015, OHCHR published a study on the economic, social and cultural rights of migrants in an irregular situation. Designed for use by government policymakers, national human rights institutions, civil society organizations, lawyers, judges and migrants themselves, it describes the scope and content of the human rights of undocumented migrants, notably in the areas of health, housing, education and employment. In December 2015, the Regional Office held a seminar entitled "Economic, social and cultural rights of migrants: beyond the immediate crisis", at which representatives of governments, national human rights institutions and ombuds offices, civil society and international and regional organizations debated promising policies and practices in member States of the European Union with respect to the economic, social and cultural rights of migrants, regardless of administrative status.

1. High-level Dialogue on International Migration and Development: promoting inclusive cooperation and dialogue

27. In the lead-up to the High-level Dialogue on International Migration and Development, held on 3 and 4 October 2013, in June 2013 OHCHR organized an expert meeting on migration, human rights and governance. Member States discussed relevant issues with representatives of Global Migration Group agencies, human rights mechanisms, regional organizations, international and regional non-governmental organizations, trade unions and academic bodies. In the report that it subsequently issued, entitled "Improving human rights-based governance of international migration", OHCHR identified the ongoing need for regular cooperation and dialogue in the United Nations between all stakeholders, including States, civil society and migrants themselves, to identify and address policy and knowledge gaps on cross-cutting and emerging migration issues. At the High-level Dialogue itself, OHCHR helped to ensure that discussions focused on human rights; for example, the High Commissioner formally participated in a panel discussion, and gave key note addresses at several important side events, which were welcomed by States, civil society partners and other stakeholders.

2. Mexico and Tunisia: piloting indicators of migrants' human rights

28. In April 2015, responding to requests by States for assistance with data collection and disaggregation, OHCHR, the Global Knowledge Partnership on Migration and Development of the World Bank, UNICEF, ILO and the Migrant Forum in Asia organized an expert meeting to develop indicators on the human rights of migrants, focusing on the rights to health, education and decent work. Participants in the two-day meeting characterized the essential attributes of the rights enshrined in international instruments and identified contextually relevant indicators and benchmarks for measuring the degree to which the human rights of migrants had been met, particularly at the country level. They highlighted the need for data on the situation of migrants and their families, and for indicators that could be used to improve the design of migration policies and programmes. The meeting was attended by local and national government officials, human rights and migration experts, statisticians and representatives of civil society organizations with expertise in data collection.

29. Mexico took a lead in piloting the implementation of the findings made at the expert meeting. A national consultation in May 2015 assessed and refined the proposed indicators and confirmed the feasibility of producing disaggregated data on migrants. The exercise produced useful proposals for improving data collection, including one to establish a national information system on migration, which is currently under development.

30. As part of the same initiative, OHCHR started work on a national pilot consultation in Tunisia, which will be conducted with the Global Knowledge Partnership on Migration and Development, UNICEF, ILO and the Migrant Forum in Asia. The Tunisian National Observatory for Migration will lead in taking the project forward and will host a consultation in early February 2016 to assess the applicability of various human rights indicators to migration in Tunisia. Participants will include relevant ministries, the national statistics office, non-governmental organizations and other stakeholders.

3. Tunisia: framing a national migration strategy compliant with international standards

31. ILO and OHCHR advised and assisted the Government of Tunisia in formulating a national road map for labour migration policies. Developed in the course of tripartite discussions between the Ministry of Social Affairs of Tunisia, the labour union (UGTT) and the employers' union (UTICA), the road map sets out the final outputs of a programme to enhance the governance of labour migration and the protection of migrant workers' rights in Tunisia, as well as technical cooperation priorities. The latter include, inter alia, capacity-building programmes to protect the rights of migrants in Tunisia and programmes to strengthen Tunisian social dialogue on migration. As advocated by OHCHR, the road map foresees a broad advocacy campaign leading to the State's swift adoption of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

32. Reflecting this initiative, ILO and OHCHR provided technical advice on legislative reform with respect to labour migration in the State. A workshop held early in 2016 will bring together Tunisian ministries, Members of Parliament, social partners, and ILO and OHCHR experts to explore the steps required to ratify the Convention on Migrant Workers and ILO Conventions 97, 143 and 189. It will also address key topics, including the protection of the rights of Tunisians abroad; the situation of domestic workers in Tunisia; potential reform of the labour code; the role of labour inspectors in protecting migrant workers' rights; and challenges and opportunities that migrant workers experience in their access to the national labour market. ILO and OHCHR will draft technical notes and

documents on each of the above themes and advise the Government on how it might implement the reforms envisaged.

33. In 2015, OHCHR, in collaboration with IOM and ILO, trained 20 officials from ministries that deal directly with migration on a human rights-based approach to migration. OHCHR also gave an introductory session on human rights indicators with regard to migrants.

4. Mauritania: promoting national plans of action on trafficking and migration

34. In November 2015, under the coordination of the Commissariat for Human Rights and Humanitarian Action, the Government of Mauritania prepared a draft national plan of action to stop trafficking in persons, in accordance with a recommendation made during the first cycle of the universal periodic review. OHCHR submitted substantive observations and recommendations on best practices. At the end of 2015, the draft plan on trafficking was awaiting finalization and adoption by the Council of Ministers.

35. Looking forward, OHCHR will continue to assist the Government of Mauritania to prepare and adopt a national plan of action for migrants by 2017 that complies with international standards and includes a consultation mechanism for its implementation.

5. Guatemala: compliance with international standards

36. OHCHR continued to provide technical assistance and advice to various commissions in the Congress of Guatemala, with the objective of ensuring that initiatives and legal reforms on migration comply with international standards. OHCHR worked closely with the Commission on Migrants, relevant authorities and civil society on reform of the law on migration. The views expressed by the Office, and the recommendations made by the Special Rapporteur on the human rights of migrants and the Committee on the on the Protection of the Rights of All Migrant Workers and Members of Their Families were incorporated into the draft, which no longer focuses purely on national security and border control.

6. Lebanon: drafting a code of conduct for recruiting agencies

37. At the country level, OHCHR assisted governments, national human rights institutions and civil society entities to draft and revise legislation on migrants in a manner that conforms with international human rights standards. In Lebanon, for instance, the Regional Office for the Middle East helped to develop a code of conduct for recruiting agencies working with migrant domestic workers, and took a range of initiatives that made recruiting agencies more aware of international human rights standards relevant to migrants and migration.

7. Seychelles: assisting the Government in combating trafficking

38. In 2014, the National Assembly of Seychelles enacted the Prohibition on Trafficking in Persons Act, which penalizes trafficking in persons and makes provisions for protecting and rehabilitating victims of trafficking. The Act established a national interministerial coordinating committee to harmonize the State's efforts to combat trafficking in persons and oversee the implementation of the National Strategy and Action Plan on Trafficking in Persons. The law was enacted in response to the recommendations made by the Special Rapporteur on trafficking in persons, especially women and children, following her visit to the State in January 2014 (see A/HRC/26/37/Add.7).

8. Costa Rica: improving migrants' access to services

39. Through the Joint Programme on Youth, Employment and Migration, IOM, the United Nations Population Fund (UNFPA) and UNHCR facilitate the educational integration of young migrants and refugees in two cities in Costa Rica. The Programme runs workshops in selected communities to raise teachers' awareness of young migrants' rights, and assists officials in improving the access of migrants to health and education, immigration advice and labour opportunities.

9. European Union: human rights training for border authorities

40. OHCHR provided technical assistance to the European Agency for the Management of Operational Cooperation at the External Borders of Member States of the European Union (FRONTEX). In 2012, it helped develop human rights training materials for border guards, raising their awareness of approaches to migration from a human rights perspective.

41. In 2014, FRONTEX, in association with OHCHR, the Organization for Security and Cooperation in Europe, IOM, UNHCR and national practitioners, organized two training-of-trainer sessions on combating and preventing trafficking in human beings for border guards in Member States of the European Union. The sessions were attended by border and immigration authorities from Austria, Belgium, Bulgaria, the Czech Republic, Denmark, Estonia, Greece, Italy, Latvia, Lithuania, Poland, Portugal, Romania, Spain, Sweden, Switzerland and the United Kingdom of Great Britain and Northern Ireland.

42. OHCHR and UNHCR are delivering training on human rights norms and standards to personnel of the European Union naval force set up to detect and monitor smuggling networks in the Mediterranean. OHCHR also contributed to the force's distance learning package.

43. Since 2012, facilitated by FRONTEX, the Regional Office for Europe has been training trainers of border guards in both member and non-member States of the European Union on combating and preventing trafficking in human beings. Since 2014, it has also provided training to those who teach border guards about human rights, focusing on the rights of migrants. Training focuses on increasing participants' awareness and understanding of international and regional human rights standards relating to migrants, and sanctions on trafficking in human beings.

10. European Union: supporting a right-based approach to European Union legislation and programme frameworks against trafficking in human beings

44. In 2011, when the European Union began to prepare Directive 2011/36/EU on preventing and combating trafficking in human beings and protecting its victims, a number of United Nations agencies submitted a joint statement to the Council of the European Union and the European Parliament in which they invited the European Union to adopt a human rights-based approach that was both gender- and age-sensitive. OHCHR subsequently participated actively in the elaboration and adoption of the Directive, in association with other United Nations agencies, including ILO, UNHCR, UNICEF, the United Nations Office on Drugs and Crime and UN-Women.

45. In 2012, OHCHR, together with five Brussels-based United Nations agencies, finalized and launched a joint United Nations commentary on the Anti-Trafficking Directive. Designed for policymakers, legislators and civil society organizations, the commentary was designed to assist member States of the European Union to integrate the Directive into national legislation, building on previous engagement of the United Nations with European Union institutions in this area. It provides practical guidance on the application of a human rights-based approach to the implementation of the Directive,

putting human rights at the centre of all efforts, including when dealing with the criminal dimensions of trafficking in and the smuggling of persons.

46. In April 2013, OHCHR and the Regional Office for Europe organized a seminar in Brussels on the recommendations that United Nations human rights mechanisms – treaty bodies, special procedures and the universal periodic review – had made to member States of the European Union on the subject of migrants' rights. At the seminar, participants explored how the recommendations could be applied to improve respect for migrants' human rights. Representatives of 24 member States of the European Union and of national human rights institutions heard presentations by OHCHR experts, the Special Rapporteur on the human rights of migrants, the European Commission, UNICEF, IOM, the Council of Europe, and Amnesty International. Meeting under the Chatham House rule, the participants examined, inter alia, policies to prevent the detention of migrant children, the separation of migrant children from their families, migrants' access to national health insurance schemes, and legal protection of migrant domestic workers.

11. Ethiopia: addressing youth employment and distress migration

47. FAO works in Ethiopia (and also Tunisia) to address the root causes of migration and to promote innovative mechanisms to generate rural youth employment. The project "Youth mobility, food security and rural poverty reduction: fostering rural diversification through enhanced youth employment and better labour mobility" meets the needs of rural young adults and maximizes the development benefits that migrants can bring to their communities of origin. It has used remittances to generate productive activities, explored the potential of sustainable production practices to generate "green" jobs, and facilitated seasonal employment opportunities for young adults. The aim is to identify successful practices and to replicate them in other countries.

12. Africa region: the importance of sound data for policymaking

48. The Population Division and the Statistic Division of the Department of Economic and Social Affairs and the Economic Commission for Africa organized two regional workshops: in November 2014, in Addis Ababa, and in September 2015, in Dakar. Their main objective was to strengthen the technical capacity of government officials who produce, analyse and apply migration data from all sources, and their capacity to inform national migration policies and development plans. The workshops were aimed at enabling participating countries to produce national migration data that meet international standards, and increasing understanding of the uses and limitations of migration data for policy purposes, including policies associated with the implementation of the Declaration of the High-level Dialogue on International Migration[2] and Development and the post-2015 development agenda.

49. The workshop in Addis Ababa brought together experts from national statistical offices responsible for official statistics on international migration, relevant ministries or agencies that compile and analyse administrative migration data for policy purposes, and representatives of ministries in Botswana, Ethiopia, Ghana, Kenya, Lesotho, Malawi, Namibia, Nigeria, South Africa, Swaziland, Uganda, Zambia and Zimbabwe. Delegates from Algeria, Benin, Burkina Faso, Côte d'Ivoire, Libya, Mali, Mauretania, Morocco, the Niger, Senegal and Togo attended the workshop in Dakar.

[2] General Assembly resolution 68/4.

13. North Africa: protecting migrants and asylum seekers

50. In its resolution 17/22, the Human Rights Council requested OHCHR to monitor the situation of migrants and asylum seekers in North Africa. In he report submitted to the Council pursuant to that request (A/HRC/18/54), OHCHR highlighted the human rights concerns associated with the displacement of migrants and asylum seekers fleeing events in North Africa between January and August 2011, described the international response, and made recommendations designed to protect the human rights of migrants and asylum seekers.

B. Ratification of international and regional human rights instruments, and review of reservations

1. Supporting ratification of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families and national legislation compliant with international standards

51. During the period under review, OHCHR assisted a number of national governments that plan to ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families by 2017, notably Djibouti, Ethiopia, Honduras, Liberia and Zimbabwe.

52. In December 2010, on the occasion of the twentieth anniversary of the Convention, the OHCHR Regional Office for Europe organized a seminar in the European Parliament with the participation of European Members of Parliament representing several political groups. It presented the draft of a comprehensive study on how best to narrow the gap between European Union law and the Convention. The event addressed the often-repeated but anachronistic and occasionally self-contradictory arguments put forward by States that oppose ratification of the Convention. Several members of the European Parliament attended the official launch of the OHCHR publication *Rights of Migrant Workers in Europe*.

2. Madagascar: supporting ratification of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families and national legislation compliant with international standards

53. Since 2007, thousands of Malagasy migrant workers have sought employment abroad, notably in Kuwait, Lebanon, Mauritius, Saudi Arabia and Seychelles. Drawn by promises of better working conditions, many have been exploited and suffered ill-treatment. When the Minister for the Public Function and Social Affairs decided to send 500 domestic workers per month to Kuwait and Saudi Arabia in 2014, OHCHR, IOM and civil society organizations, with the Ministry of Justice, organized a meeting in the Prime Minister's Office to discuss the need to protect the rights of Malagasy migrant workers. The Governing Council subsequently issued a decree that suspended the transfer of non-qualified Malagasy labour to countries that could not provide sufficient protection for migrant workers.

54. On 27 November 2013, Madagascar ratified the Convention. Through advocacy and capacity-building, OHCHR supported government and parliamentary efforts to operationalize this important instrument. A law authorizing ratification was promulgated by the President of the Republic on 20 February 2014, and the State's instrument of ratification was deposited on 13 May 2015, helping to strengthen the human rights protection system in Madagascar.

55. On 16 December 2014, Madagascar, encouraged by intensive advocacy, training and sensitization by OHCHR, IOM, UNICEF, UNFPA and the United Nations Development Programme (UNDP), adopted a law against human trafficking. This landmark law protects victims of trafficking, punishes perpetrators and affirms the State's responsibility to protect the rights of victims to return to their country and to compensation. At the Government's request, OHCHR advised on State's compliance with international standards and principles and, as Chair of the Human Rights and Gender Working Group of the United Nations country team, coordinated technical support for the Government when it was drafting a national plan of action against human trafficking, which was adopted and validated in March 2015. At the request of the Ministry of Population, Social Protection and the Promotion of Women, OHCHR is assisting the Government in drafting a national plan of action for the protection of minorities, including migrants and persons with disabilities.

C. Compliance of national legislation, policies and programmes and institutions with international human rights standards to combat discrimination, particularly against women

1. Mexico and Guatemala: advancing protection of the human and labour rights of migrant workers

56. Since 2013, ILO has assisted the Ministry of Labour and Social Protection (Secretaria del Trabajo y Prevision Social) of Mexico and the Ministry of Labour and Social Protection (Ministerio de Trabajo y Prevision Social) of Guatemala to develop and implement a bilateral labour migration agreement. The purpose of the agreement is to promote decent, productive jobs and to protect the labour rights of temporary migrant workers by, inter alia, strengthening public employment services and creating a binational system for licensing and monitoring private employment and recruitment agencies. ILO is technically assisting both countries to create a binational technical working group and a new temporary migrant worker programme, and to organize information campaigns on the protection of migrant workers' rights during recruitment and placement processes.

2. Europe: protection of the rights of unaccompanied migrant children

57. In 2011, the Regional Office for Europe held a judicial colloquium on the implementation of article 3 of the Convention on the Rights of the Child (best interests of the child) in procedures involving migrant children, in particular unaccompanied or separated children. Organized in cooperation with UNICEF and with the support of UNHCR, Save the Children, the European Council on Refugees and Exiles, the Supreme Court of Catalonia and the Office of the Ombudsman (Spain), the colloquium brought together judges from national and regional courts in Europe to share experiences and views on how the principle of best interests can be fully respected and implemented. It considered a range of critical issues, including age determination proceedings, decisions on durable and long-term solutions for such children, access to basic social services, and the procedural safeguards necessary to ensure that children's rights are respected when decisions that may have a critical effect their future are made. The results of the colloquium were included in publications that informed efforts to implement the European Commission Action Plan on Unaccompanied Minors (2010-2014) at European Union and national levels.

58. In 2012, the Regional Office for Europe published the findings made at the colloquium. *Judicial Implementation of Article 3 of the Convention on the Rights of the Child in Europe: the case of migrant children, including unaccompanied children* was made public during a plenary session of the Committee on Civil Liberties of the European Parliament, which is responsible for discussing human rights issues in the European Union.

A key advocacy tool, the study has raised awareness of the importance of the role of the judiciary in determining the best interests of migrant children. It highlights good judicial practices with respect to migrant children, efforts to take them into account in policymaking and programme implementation, and differences of practice between member States of the European Union.

59. The Regional Office for Europe continues to pay special attention to the situation of unaccompanied and separated children in Europe, and will support efforts by European Union institutions and member States to follow up on the Action Plan in 2016 and in coming years.

3. Thailand: supporting State efforts to protect the rights of those in migrant shelters

60. In 2013, the Regional Office for South-East Asia, together with the National Human Rights Commission of Thailand, as part of its support to strengthen the capacity of national human rights institutions and other State institutions, conducted a joint mission to women's and children's shelters in Thailand to assess the treatment and conditions of migrants, in particular the situation of Rohingyas. After the visit, the two organizations engaged jointly with local and national authorities to ensure that the rights of women and children in shelters are protected and that they receive basic minimal facilities, and to support initiatives to strengthen the human rights capacity of relevant institutions.

4. Philippines: aligning national legislation on migration with the Convention on the Elimination of All Forms of Discrimination against Women

61. In partnership with OHCHR and ILO, UN-Women has developed the project "Promoting and Protecting Women Migrant Workers' Labour and Human Rights: Engaging with International and National Human Rights Mechanisms to Enhance Accountability" in the Philippines, Mexico and the Republic of Moldova. The project promotes gender-sensitive policies on migration and development through research, capacity-building and advocacy, focusing on the provisions of general recommendation No. 26 of the Committee on the Elimination of Discrimination against Women. The Philippines aligned the provisions of the new bill on overseas workers' welfare with the International Convention on the Elimination of All Forms of Discrimination against Women.

D. Increased use of existing national protection systems and participation in public processes by right holders, especially women and discriminated groups

Republic of Moldova: assisting national authorities to protect individual rights

62. In the context of the efforts of OHCHR to build national capacity, its technical cooperation and advisory services have strengthened the capacity of rights holders to gain access to national protection systems. One such example is its part role in the United Nations – Moldova Development Partnership Framework (2013-2017). In October 2013, a Moldovan citizen requested assistance because her partner, a citizen of Ghana, had been deported to his country of origin, even though the couple had a six-month-old child. Technical support was provided to the citizen to explain the State's procedures and to facilitate discussion of the case with the Bureau for Migration and Asylum. Her partner was issued a 30-day visa, which allowed him to return to the Republic of Moldova to register with the civil authorities. In another case, following a visit of the Special Rapporteur on extreme poverty and human rights in September 2013, three women held in a migrant detention centre, who were at risk of being deported from the Republic of Moldova and becoming victims of human trafficking, were freed and offered legal assistance to secure

residence permits in the country. Through its human rights advisers, OHCHR has assisted victims and United Nations partners to clarify international law requirements.

E. Compliance and engagement by States with United Nations human rights mechanisms and bodies

1. Timor-Leste: strengthening State capacity to report on the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families

63. At the request of the Government of Timor-Leste, the human rights advisers unit of OHCHR provided its assistance in preparing the first State party report under the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families. Between March and October 2015, the unit, in collaboration with IOM, conducted three training sessions for 40 officials (including 10 women) on the Convention, the reporting process and its outcome, facilitated the translation of the list of issues and the concluding observations into Tetum (one of the official languages of Timor-Leste), and co-facilitated with the Government two consultations that gathered input for the report from State officials, civil society entities, the private sector and embassies. At the Government's request, the unit also commented on the draft State report. It disseminated the concluding observations to government officials, the national human rights institution, civil society entities, the United Nations and development partners, as well as to members of a government-led technical working group that was preparing a national plan of action on labour migration, with extensive support from IOM.

64. The draft plan of action includes a number of recommendations made by the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families in September 2015 (see CMW/C/TLS/CO/1). In the recommendations, the Committee called upon the Government to reform laws that restrict workers' rights, to raise public awareness of the benefits of migration, to promote non-discrimination, to improve monitoring of labour conditions and to strengthen accountability for abuses of migrant workers. OHCHR provided funding to allow some of these activities to be undertaken.

2. Belarus: protecting the human rights of victims of trafficking

65. After the universal periodic review of Belarus and in response to the recommendation that to the State develop and implement, together with OHCHR, training courses on protecting the human rights of victims of human trafficking for representatives of law enforcement bodies, including those studying at the International Centre on Migration and Anti-Trafficking in Minsk, OHCHR is currently implementing a technical cooperation project in close consultation with UNDP in Belarus. During the first phase, concluded in December 2013, five training courses were organized for law enforcement officials. They included a workshop for member States of the Group of Friends United against Human Trafficking, and an international workshop on the theme "Cross-border cooperation: exchange of experiences and best practices for combating international trafficking". Five training courses for law enforcement officials have been organized during the ongoing second phase, which started in 2014. The courses, attended mainly by participants from Belarus but also from Estonia, Kazakhstan, Lithuania, the Republic of Moldova, the Russian Federation and Ukraine, addressed the challenges of trafficking in persons, and identified good practices when combating trafficking.

3. European Union: assisting the Special Rapporteur on the rights of migrants to study the management of the external borders of the European Union

66. In 2012 and 2013, OHCHR assisted the Special Rapporteur on the human rights of migrants to study the management of the external borders of the European Union and its human rights impact on migrants. His research included visits to Brussels for consultations with European Union officials, and to Greece, Italy, Tunisia and Turkey (see A/HRC/23/46).

IV. Conclusions and recommendations

67. The examples presented in the present report highlight a number of experiences where the provision of technical cooperation and advisory services has proved helpful in supporting States' efforts when applying a rights-based approach to the development and implementation of migration policies and programmes.

68. Experience has shown that protecting human rights in the context of migration requires a multifaceted approach, involving a large number of national, regional and international actors. Cooperation is a key component of successful and efficient interventions. The participation of all State and non-State stakeholders in the design, implementation, monitoring of progress, and evaluation of policies and programmes is fundamental to all rights-based interventions. In the area of migration, it is particularly crucial because the elements of migration policies are so diverse and involve a wide range of State and non-State actors. The support provided through technical cooperation and advisory services by OHCHR and other United Nations entities is based on the need to guarantee the human rights of all migrants, regardless of their status, and to ensure the fulfilment by States of their international legal obligations. The commitments in the 2030 Agenda for Sustainable Development to "leave no one behind" and to cooperate internationally to ensure safe, orderly and regular migration that fully respects human rights regardless of migration status require an approach to migration that is based fully on human rights.

69. In recent years, the Human Rights Council has increasingly called for a human rights-based approach to migration, expressing its wish that OHCHR should continue to play a lead role. In this respect, the Council could consider holding regular discussions on the human rights of migrants by, for example, organizing an annual panel discussion thereon.

70. The examples given in the present report of technical assistance to support States' efforts illustrate many of the steps that must be taken to realize a human rights-based approach to migration.

71. It is important, first of all, to ensure that national laws on migration comply with international standards, and to establish a national strategy for protecting the rights of migrants, including plans to respect, protect and fulfil their rights to health, adequate housing, education and decent work.

72. In all forms of migration, it is essential to disaggregate needs and to identify the special needs and risks of specific groups, including women, children (including unaccompanied children), domestic workers, persons with disabilities and older persons. This task requires the development of accurate and well-designed arrangements for data collection and analysis, and a variety of indicators and benchmarks that allow States and other actors to measure the extent to which policies and their implementation actually protect and meet the needs of both migrants and host societies.

73. **Good policies and laws that comply with international standards are not, however, sufficient by themselves. Institutions with appropriate capacity are required to implement them. This implies the provision of training in human rights law and standards that relate to migrants, for border officials, judicial officials, government officials , professionals who deliver essential services or make important decisions (such as teachers and medical personnel), and also civil society organizations and migrants themselves.**

74. **It is vital to regulate and inform employers and recruiters of migrant workers, and to monitor and regulate employment conditions and contracts, not least by training and empowering factory inspectors and law enforcement and judicial officials who prosecute cases of abuse, protect victims and provide victims with redress.**

75. **Lastly, it is vital to train and strengthen the capacity of independent monitoring bodies, in particular national human rights institutions and civil society organizations, to ensure that public institutions are properly accountable.**

76. **The examples of technical assistance given in the present report cover most or all of these essential dimensions of action to promote a rounded, human rights-based response to all forms of migration. In close collaboration with States, other United Nations agencies and a wide range of independent bodies, OHCHR will continue to work towards a fully coherent and rights-based approach to migration, undertaking technical assistance activities that complement the mandates of these actors and add value.**